

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Richmond Division**

**ERIC C. McCARTER,**

Plaintiff,

v.

Civil Action No. **3:14CV356**

**T.L. NUTTER,**

Defendant.

**MEMORANDUM OPINION**

By Memorandum Order entered on May 28, 2014, the Court conditionally docketed Plaintiff's civil action. At that time, the Court directed Plaintiff to affirm his intention to pay the full filing fee by signing and returning a consent to collection of fees form. The Court warned Plaintiff that a failure to comply with either of the above directives within thirty (30) days of the date of entry thereof would result in summary dismissal of the action.<sup>1</sup>

Plaintiff has not complied with the order of this Court. Plaintiff failed to return a completed consent to collection of fees form. As a result, he does not qualify for *in forma pauperis* status. Furthermore, he has not paid the statutory filing fee for the instant action. *See* 28 U.S.C. § 1914(a). Such conduct demonstrates a willful failure to prosecute. *See* Fed. R. Civ.

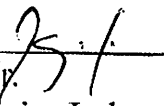
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<sup>1</sup> On June 4, 2014, the Court received the May 28, 2014 Memorandum Order marked "RETURN TO SENDER." On June 5, 2014, the Court received a change of address from Plaintiff and the Clerk remailed the May 28, 2014 Memorandum Order and forms to Plaintiff that day. On July 28, 2014, the Court received a motion to withdraw the action. On August 4, 2014, Plaintiff changed his mind and asked the Court to ignore his motion to withdraw and continue the action "[i]f [he] can still proceed in forma pauperis." (ECF No. 8, at 1.)

P. 41(b). Accordingly, this action will be DISMISSED WITHOUT PREJUDICE.

An appropriate Order shall accompany this Memorandum Opinion.

Date: 8/18/14  
Richmond, Virginia

/s/   
John A. Gibney, Jr.  
United States District Judge